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Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary Forms
of Slavery
Seventeenth session
4-13 May 1992
Items 4 and 5 of the provisional agenda

OVERALL EVALUATION OF THE ACTIVITIES OF THE WORKING GROUP DURING ITS FOURTEENTH, FIFTEENTH AND SIXTEENTH SESSIONS

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information submitted by Governments, United Nations organs, specialized agencies and intergovernmental organizations

Note by the Secretary-General

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BELGIUM

[Original: French]
[23 August 1991]

Summary of the situation with regard to the traffic in women

Introduction

1. This situation first came to light in the series of articles published in the 4, 11 and 18 April 1990 issues of the weekly magazine Knack. The traffic consists mainly of "import networks" in which certain impresarios, dating agencies and marriage bureaux are said to play a key role. Their activities also involve degrading practices, including certain types of advertising (selection of girls from catalogues or small ads which extol the "virtues" of women described as "good buys"), and violations of individual freedom, since women are forced to prostitute themselves.

Current law

2. The law is not totally powerless to deal with these problems. Although articles 379 et seq. of the Penal Code do not classify the "white slave trade" as a crime, they penalize anyone who "procures, entices or corrupts another person for the purposes of debauchery or prostitution, even with that person's consent ...". This provision allows action to be taken against intermediaries who, although they are not procurers themselves, are involved in networks through which women are introduced into prostitution rings.

3. This is clear from the case law of the Court of Cassation and, in particular, its decision of 18 November 1987 (RDP 1988, pp. 210 et seq.). The case in question was a perfect example of the type of activity denounced by Knack (see, in particular, the second finding relating to the first section, p. 211).

4. It may therefore be said that the inclusion in the Belgian Penal Code of a provision based on article 250 ter of the Netherlands Penal Code, as suggested by Knack magazine in its 27 March 1991 issue, referring to the "traffic in women", would not serve any purpose, since the definition of this term, as contained in the preliminary documents, is equivalent to the interpretation of article 380 bis, paragraph 1, of the Belgian Penal Code given by the Court of Cassation.

5. The problem is evidence: it must be possible to establish that the intermediary in question is aware of the purpose of the operation.

6. Other practices are nothing more than swindles (for example, accepting a down payment for a marriage with a Filipino woman chosen from a catalogue, the whole operation being a fake).

7. In meetings with public prosecutors, moreover, the Minister of Justice has drawn the attention of the judicial authorities to these problems. The public prosecutors have sent him reports that have been analysed by the administration in order to determine whether the cases referred to in Knack have led to legal proceedings.

8. Some of the persons mentioned in the Knack articles have apparently been convicted or prosecuted, but many of the cases have not been referred to the judicial authorities or no evidence has been produced.

9. It may thus be concluded that the problem is only partly solved by traditional criminal law.

10. However, this summary will be sent to the public prosecutors, who will again be urged to take the necessary steps to encourage the prosecutors' offices and the police to pay particular attention to such cases, especially in view of the additional detailed information published by Knack in its 20 and 27 March 1991 issues describing the unlawful activities engaged in by certain persons identified by a journalist.

Non-legislative measures

11. Action to combat the white slave trade may take various non-legislative forms. In reply to a challenge by a deputy, Mrs. Nelly Maes, on 20 June 1990, the Minister of Justice announced several such measures:

(a) Tighter restrictions on issuing visas in "suspect" countries (refusal must be the rule);

(b) Greater caution in accepting political refugees (the "Ghanaian connection" is based entirely on procedures for obtaining such status);

(c) Tighter restrictions on issuing diplomatic visas (the attention of the Ministry of Foreign Affairs has been drawn to the matter);

(d) The granting of visas to women who wish to legalize their situation;

(e) The regions were asked to be far stricter in issuing work permits, which affect the granting of residence permits.

12. From the "immigration" point of view, the situation may be summarized as follows.

13. The visa department exercises the greatest caution whenever it handles applications from young women from "high-risk" countries (e.g. the Philippines, Thailand, Guadeloupe, etc.). In principle, visa applications are turned down, unless of course, the applicant meets all the requirements or provides all the guarantees requested by the administration.

14. Now more than ever, severity is thus the rule in this regard, particularly as the same problem exists in the Eastern countries. Dozens of young women, mainly from the former Soviet Union, are applying for visas through the Belgian Embassy in Budapest. The excellent coordination between the Embassy and the Ministry of Justice has so far made it possible to keep the situation under control. This is probably a connection that has not yet been identified.

15. Large numbers of applications have also been made by young filipinos and Thai women through the diplomatic mission in Luxembourg. In this case as well, the visa department reacted immediately by putting a stop to this process.

16. The problem of applications for refugee status from Ghana made on fraudulent grounds still has not been solved in 1991. In the first two months of the year, there were as many applications as in previous years. The applications were rejected in 98 per cent of cases. However, it should be noted that the applicants are fully aware of how the procedure works, of how long it takes and of the possibilities of appeal. They can nevertheless not be arbitrarily excluded from the procedure. Only a drastic change in existing law would make it possible to curb or have more control over the Ghanaian connection. The matter is currently being considered by the Senate Justice Commission on the basis of a bill submitted on 24 October 1990.

17. Moreover, on 4 January 1989, the Minister of Justice drew the attention of his colleagues, the Secretary of State for the Environment and Social Emancipation, the Minister of the Flemish Executive Department for Health and Brussels Affairs, the Commissioner-General for Refugees and the Antwerp Prosecutor's Office, to the various aspects of the distressing problem of Ghanaian prostitutes who are also "candidates" for refugee status, so that they would adopt the appropriate measures. At that time, the Aliens' Department took the necessary measures to give priority to the handling of such cases.

18. The Minister of Justice sent a letter drawing the attention of his colleague, the Minister for Foreign Affairs, to the problem and identifying the countries at risk so that the necessary preventive instructions on the issuing of visas could be given to the consulates and diplomatic missions concerned.

19. Applications from young female prostitutes who are in Belgium unlawfully and who voluntarily declare themselves to the commune or to the Aliens' Department in order to put their situation in order and come out of hiding will be given special and sympathetic treatment. It is obviously particularly difficult for the Aliens' Department to assess a person's desire to leave a prostitution network and this is quite a different matter from processing an application for a residence permit. The first case came up recently and was resolved satisfactorily. In addition, the 27 March 1991 issue of Knack magazine reported the action taken by the Office of the Minister of Justice in this connection.

20. The problem of the need for coordination between the issuing of residence permits and work permits is being discussed by an interministerial group, which reports to the Office of the Royal Commissioner for Immigration Policy.

Legislative measures

21. In reply to a parliamentary question, the Minister of Justice also announced the consideration of a bill designed primarily to prevent certain types of degrading advertising and "imports" of non-EEC nationals. The main objectives of the bill are:

(a) To prevent operations designed to attract persons who are not residents of the European Community;

(b) To prohibit certain types of degrading advertising.

22. The following matters might also be discussed:

(a) Preventing marriage bureaux from helping to spread the problem of marriages of convenience (this objective would be achieved de facto if marriage bureaux had to restrict their activities to putting lawful residents of the member States of the European Community in touch with one another;

(b) Preventing dishonest practices in respect of payment schemes proposed to customers, for example, by introducing a cooling-off period before the signing of contracts. If necessary, marriage bureaux might be required to deposit security to guarantee the repayment of amounts improperly received on account.

23. However, the bill faces problems:

(a) The jurisdiction of the local authorities (matters of concern to individuals: family policy, assistance to individuals, etc.);

(b) Respect for the principles embodied in the Convention for the Protection of Human Rights and Fundamental Freedoms (the principle of non-discrimination, which is not applicable only to EEC nationals);

(c) Problems relating to the jurisdiction of other ministries (in particular, with regard to business practices).

24. In this connection, the administration was invited to continue its study, essentially from the viewpoint of the regulation of advertising and conditions for the conclusion of contracts (payment, cooling-off period).

25. The commercial law section of the civil and criminal affairs department is now carrying out a comparative law study which should make it possible to identify possible solutions.

26. It is neither possible nor advisable for the Ministry of the Middle Classes to enact rules relating to access to the profession. It would be difficult to define criteria for qualifications and professional experience.

CYPRUS

[Original: English]
[20 January 1992]

1. The Permanent Central Agency for Women Rights, which is the national machinery for the promotion of women's issues, has not yet introduced special programmes to tackle the problem of the traffic in women and prostitution. Of course, within the general framework of the Government's policy for the advancement of women, which is based on the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women, various programmes have been pursued aiming at the improvement of the social and economic situation of women generally but mainly of those in a disadvantaged position.

2. Since poverty and lack of social and economic emancipation are frequently the root causes of this problem, measures promoting economic and social equality contribute, at the same time, towards the prevention and suppression of prostitution and other forms of exploitation of women.

3. Measures taken include the following:

(a) Legislative measures. The reformed Family Law which has been promulgated recently among other things grants to women the same rights and obligations as men in matters concerning their personal as well as their financial relations as spouses. Special reference should be made to the right of a former spouse to obtain a fair share in the property of the other, as well as the provision of adequate contributions to the party which after divorce is not able to be self-supporting;

(b) Other measures

(i) Vocational and training programmes especially designed for women. These programmes include special training courses to attract young unemployed women in gaining basic skills covering existing needs of the local industry mainly sponsored by the Industrial Training Authority and programmes encouraging older women, mainly housewives, to enter or re-enter economic activity;

(ii) Setting up of a crisis centre by a voluntary organization. The centre provides a refuge to battered women and/or women in danger and offers appropriate assistance by qualified persons. The centre is subsidized by public authorities and the Agency for Women's Rights;

(c) Enlightenment campaigns. The launching of campaigns aiming at increasing awareness of women's problems and at changing traditional discriminatory social attitudes and practices towards women through the mass media, the Permanent Central Agency for Women's Rights and non-governmental organizations.

EGYPT

[Original: Arabic]
[1 February 1992]

1. By virtue of its prevailing values, customs and traditions, Egyptian society rejects all contemporary forms of slavery and servitude, which are incompatible with humanity.

2. Egypt is combating all forms of offences against public morality within the framework of Act No. 10 of 1961, which prohibits and represses such offences.

3. The competent departments at the ministry (General Directorate for the Repression of Offences against Public Morality) monitor such matters and take the necessary measures to combat any behaviour which is likely to violate the principles of public morality. They are also responsible for taking the requisite preventive measures in this regard and for rehabilitating former offenders, in collaboration with the Ministry of Social Affairs, with a view to their reintegration in society as upright citizens.

4. On 31 January 1992, Egypt delivered its statement before the United Nations Committee on the Elimination of All Forms of Discrimination against Women, in which it was clearly pointed out that Egyptian legislation prohibited acts of prostitution and traffic in women. Egypt is taking all the requisite measures to protect society in general, to combat all forms of slavery and servitude and to protect women's rights in particular. It is also taking steps to prevent the use of children in immoral acts, which constitute a violation of human rights and, as such, are prohibited by the laws in force in Egypt, as well as the divinely revealed laws, and proscribed by Egypt's deep-rooted customs and traditions.

JAPAN

[Original: English]
[13 July 1991]

1. In Japan, the Anti-Prostitution Law which has been in force since 1958 provides for the suppression of prostitution and the prohibition of the exploitation of prostitution of others. This law has no penal provision to punish an act of prostitution itself or a prostitute herself, but is designed mainly to punish acts which facilitate or promote prostitution and, in particular, those acts which make others engage in prostitution by using some type of force or influence, and it also provides a kind of "security measure" to take care of those who are prone to engage in prostitution, in the light of their character, conduct or environment, as well as measures for their rehabilitation.

2. As for the direct penal provisions regarding the exploitation of the prostitution of others, the Anti-Prostitution Law provides that:

(a) In case any person, who has made another person/persons engage in prostitution by cheating or embarrassing her or through the influence of his/her relationship with her, receives the whole or a part of the payment she received for prostitution, or demands it, or makes a contract to receive it, he (or she) shall be punished by imprisonment with labour for not more than five years and a fine not exceeding 200,000 yen (art. 8, para. 1);

(b) Any person who orders the person engaged in prostitution to surrender the whole or a part of the payment she received for prostitution, through the influence of his/her relationship with her, shall be punished by imprisonment with labour for not more than three years or a fine not exceeding 100,000 yen (art. 8, para. 2).

3. The law also provides (in art. 12) that any person who makes it his (or her) business to have a person live at a place in his (or her) possession or control or at a place he (or she) designates and makes her engage in prostitution shall be punished by imprisonment with labour for not more than 10 years and a fine not exceeding 300,000 yen. Thus, the law intends to punish those acts which facilitate the exploitation of prostitution, regardless of whether the actual exploitation is committed or not. In this connection, this law has no provision directly to punish the exploitation of prostitution, but is designed to punish those acts which make a person engage in prostitution by means of cheating, embarrassment, intimidation or violence, and the act of concluding a contract for making a person engage in prostitution and also the act of knowingly furnishing a place for prostitution.

4. Since the enforcement of the Anti-Prostitution Law, there have been no brothels operating openly or semi-openly. Also, as regards the violations of articles 6, 8 and 12 of the law mentioned above, table 1 below shows the number of violators referred to, and prosecuted by, the public prosecutors' offices from 1981 through 1990. According to the table, the number of people who violated article 8 was negligible and the number of people who violated article 12 decreased in general year-by-year, as a result of intensified

controls by the law. Except in rare cases, most of the violations did not involve the exploitation of prostitutes through the use of strong influence; the violators rather sought to gain profits indirectly by furnishing opportunities or places to make it easier for prostitutes to engage in prostitution. Although the number of cases of exploitation is extremely small, there are no data which can indicate numerically how many of these violations involve acts which can be said to be exploitation.

5. As for denial of entry into Japan of those who are involved in prostitution businesses abroad, the Immigration Control and Refugee Recognition Act provides that "any person (i.e. alien) who engages or has engaged in prostitution, or procuring prostitutes for other persons or solicitation or furnishing a place for prostitution, or any other business directly connected with prostitution" shall be denied permission to enter Japan (art. 5 (7)). However, there is no statistical data available on this subject.

6. The Immigration Control and Refugee Recognition Act (art. 24 (4) (j)) also provides that "any person (i.e. alien) who is engaged in prostitution or procuring prostitutes for others, solicitation, furnishing a place for prostitution, or any other business directly connected with prostitution" may be deported from Japan in accordance with the procedures prescribed in the same Act. Tables 2 and 3 below show respectively that the number and nationality of those who received written deportation orders from 1982 to 1990, and those who were thereafter sent back from Japan during the same period.

7. International traffic in persons is covered by the Penal Code presently in force (art. 226), but such a practice has never existed in Japan, nor has the slave trade.

Table 1. Numbers of violators against the Anti-Prostitution Law (arts. 6, 8 and 12) referred to, and prosecuted by, the public prosecutors' offices (June 1990)

Year			1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
No. of referrals	Article 6	Para. 1	534	401	807	1 346	1 463	1 247	1 050	1 064	803	645
		Para. 2	184	208	283	428	521	515	630	485	413	405
	Article 8	Para. 1	3				1	1	3			1
		Para. 2										
	Article 12		176	173	372	428	346	235	140	132	107	84
No. of persons prosecuted	Article 6	Para. 1	389	323	611	1 065	1 185	1 096	905	897	664	567
		Para. 2	182	166	255	382	424	307	528	385	366	338
	Article 8	Para. 1	2		1		1					1
		Para. 2										
	Article 12		127	125	267	299	245	170	92	96	84	56

Table 2. Numbers and nationality of persons who received written deportation orders under the Immigration Control and Refugee Recognition Act (art. 24 (4) (j))

Country of nationality \ Year	1982	1983	1984	1985	1986	1987	1988	1989	1990
Brazil				1			2		
Chile	5								
China	9	20	20	12	41	50	61	19	26
Colombia				7	7	1	1		
Ecuador									1
France							1		
Indonesia								1	
Korea	1				1	1			2
Malaysia	2						1		1
Mexico				1					
Philippines	5	29	11	4	8	1		1	1
Singapore	1					1			1
Thailand	13	9	2			1	1	3	2
United Kingdom				1	1	1			
United States					1			2	
Total	36	58	33	26	59	56	67	26	34

Table 3. Numbers and nationality of persons who were sent back from Japan upon the receipt of a written deportation order, the Immigration Control and Refugee Recognition Act (art. 24 (4) (j))

Country of nationality \ Year	1982	1983	1984	1985	1986	1987	1988	1989	1990
Brazil				1			2		
Chile	5	1							
China	4	34	11	12	40	54	61	16	21
Colombia				7	7	1	1		
Ecuador									1
France							1		
Indonesia								1	
Korea	2				1	1			
Malaysia							1	1	2
Mexico				1					
Philippines	5	28	10	5	7	1		1	
Singapore	1					1			1
Thailand	13	12	1			1	1	2	3
United Kingdom				1	1	1			
United States								1	
Total	30	75	22	27	56	60	67	22	28

RWANDA

[Original: French]
[24 December 1991]

Exploitation of child labour and Programme of Action for the Elimination of the Exploitation of Child Labour

A. International Labour Conventions

1. The Republic of Rwanda has so far ratified the following two International Labour Conventions on child labour: Minimum Age (Underground Work) Convention No. 123 of 1965 and Minimum Age Convention No. 138 of 1973.

2. Since the ratification of a convention means that the ratifying State undertakes to adopt necessary measures to give effect to the provisions of the convention and guarantee its implementation in practice, answers to some of the questions dealt with in resolutions adopted by the Commission on Human Rights are to be found in the domestic legislation in force.

B. Domestic legislation

1. The Civil Code

3. Article 360 of Act No. 42/1988 of 27 October 1988 defines a minor as an individual of either sex who has not yet reached the age of 21.

4. Article 427 authorizes an unmarried minor to be emancipated by his father or, if he has no father, by his mother, when he reaches the age of 18.

5. Article 428 of the Act authorizes an orphaned minor to be emancipated if the guardianship council deems him capable.

6. Article 431 sets the age of civil majority at 21, after which citizens are entitled to exercise their full civil rights, except as otherwise provided for by law.

2. The Labour Code

7. Article 24 of the Act of 28 February 1967 establishing the Labour Code prohibits the employment of a person under age 18 without the specific consent of the person who exercises paternal authority over him or her. However, the same article provides that the Minister of Labour may authorize the employment of persons under age 14 on an exceptional and temporary basis, taking into account the particular circumstances of the profession and the situation of such persons.

8. Article 56 authorizes persons who are at least 18 years of age to take on apprentices.

9. Article 57 states that, unless a master lives in a family or a community, he may not house young female apprentices in his home or workshop. It authorizes a young female apprentice to terminate her apprenticeship contract

at any time without notice or compensation if the spouse of the master or any other woman in charge of the household at the time of the conclusion of the contract dies or retires.

10. Article 58 prohibits persons who have been sentenced for a crime or an offence, particularly an offence against public morals and decency, from taking on apprentices without permission from the Minister of Labour.

11. Article 61 prohibits hiring as an apprentice any person who has not reached the compulsory school-leaving age or who has reached the age of legal majority, without the express authorization of the Department of Labour.

12. Article 62 specifies that, in all cases, apprentices must undergo a full medical examination by an approved doctor and at the employer's expense. If the occupation chosen by the apprentice requires particular physical or psychological abilities, these must be specified and covered by a special medical examination.

13. It should also be emphasized that the apprenticeship master may employ an apprentice, within the limits of his abilities, only for tasks and duties connected with the exercise of his occupation. He must notify the apprentice's parents or their representatives in the event of illness, absence or any other reason requiring action by them.

3. The Organization Act Relating to Primary, Rural, Integrated Vocational and Secondary Education

14. Article 38 of Act No. 14/1985 of 29 June 1985 provides that primary education is compulsory for all children aged over seven.

15. According to article 40, compulsory primary education lasts eight years. The period has recently been reduced to six years.

4. Presidential Order No. 69/03/2 of 19 March 1974

16. Article 63 of this Presidential Order establishing the regulations governing central administration officials stipulates that one of the requirements for candidates for the central administration's competitive recruitment examination is that they must be at least 18 years of age.

17. It is thus clear from such legislation that the minimum age at which a person may freely enter into public or private employment in Rwanda is 18. A worker who becomes an apprentice must not be younger than the compulsory school-leaving age (which corresponds to the duration of primary education, compulsory for all children aged over seven) or older than the age of legal majority (which is set at 21 by the Civil Code).

Sale of children, child prostitution and child pornography

18. The Republic of Rwanda has acceded to the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the

Prostitution of Others and the Convention establishing the International Labour Organisation, and has undertaken to adopt legislative, administrative, economic, social and educational measures to combat all forms of discrimination against minorities and against children. Accordingly, some of the international provisions of the above-mentioned legal instruments have been given effect in domestic legislation.

The exploitation of prostitution

19. Respect for the human person is enshrined in article 12, paragraph 1, of the Constitution of Rwanda, which states that "the human person is sacred".

20. The exploitation of prostitution is explicitly characterized as an offence by articles 368 to 370 of the Penal Code of Rwanda. The Code goes even further, punishing anyone who provides facilities for prostitution (arts. 371 to 373). It also makes incitement to prostitution an offence (arts. 364 to 367). The penalties for such offences are doubled if the offence is committed against a minor aged under 18 (art. 375, para. 3).

21. The above-mentioned articles of the Penal Code read as follows:

"Article 364

Anyone who procures, entices or corrupts another person for the purposes of prostitution, whether that person is an adult or a minor and even with his consent, shall be liable to three months' to five years' imprisonment and a fine of between 10,000 and 100,000 francs.

Article 365

The penalties provided for in the preceding article shall be applicable to anyone who keeps an adult or a minor for the same purposes even with his consent.

Article 366

Anyone who by means of threat, pressure, subterfuge or any other means hinders the preventive action, assistance or rehabilitation undertaken by qualified organizations on behalf of persons engaged in or in danger of prostitution shall be liable to six months' to five years' imprisonment and a fine of between 10,000 and 100,000 francs.

Article 367

Anyone who uses any type of advertising, even if he conceals the nature of his advertisement by couching it in misleading terms, to make it known that he incites the prostitution of others or to draw attention to an opportunity for prostitution shall be liable to one month to one year of imprisonment and a fine of between 1,000 and 10,000 francs.

Article 368

Anyone who directly or through a third party keeps or manages or knowingly finances or takes part in the financing of a brothel shall be liable to one to five years' imprisonment and a fine of between 20,000 and 100,000 francs.

Article 369

Anyone who in any way shares the proceeds of the prostitution of another adult or minor, even with that person's consent, or who receives money from a person who habitually engages in prostitution shall be liable to one to five years' imprisonment and a fine of between 20,000 and 100,000 francs.

Article 370

The penalties provided for in the preceding article shall apply to any person who has a standing relationship with one or more persons engaged in prostitution and who is unable to provide proof of means in keeping with his lifestyle.

Anyone who by means of a statement, certificate or fraudulent document or by any other means or maneouvre helps any person covered by the preceding paragraph to provide proof of means which he does not actually have shall be liable to two to six months' imprisonment and a fine of between 1,000 and 10,000 francs.

Article 371

Anyone who in any way aids, abets or knowingly protects the prostitution of another person or soliciting for the purpose of prostitution shall be liable to three months' to three years' imprisonment and a fine of between 10,000 and 50,000 francs.

Article 372

The penalties provided for in the preceding article shall apply to anyone who acts as an intermediary, in any capacity whatever, between persons who habitually engage in prostitution and those who exploit or pay for the prostitution of others.

Article 373

Anyone who knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others shall be liable to one to three years' imprisonment and a fine of between 10,000 and 50,000 francs.

II. INTERGOVERNMENTAL ORGANIZATIONS

ORGANIZATION OF AMERICAN STATES

[Original: English]
[3 March 1992]

The following is extracted from the Annual Report, 1991 of the Inter-American Commission on Human Rights, General Secretariat of the Organization of American States. The paragraph numbers have been added for the convenience of the members of the Working Group.

STRENGTHENING OF THE OAS IN THE AREA OF HUMAN RIGHTS: RESPECT FOR THE RIGHTS OF MINORS

I. Background

1. Resolution AG/RES. 1112 (XXI-O/91), "Strengthening of the OAS in the Area of Human Rights", adopted by the General Assembly at its Twenty-First Regular Session, recommends, inter alia, that the Inter-American Commission on Human Rights devote special attention to and report upon respect for the rights of minors in the hemisphere.

2. To enable it to comply with that recommendation, the Commission requested the member States of the Organization to furnish such information as they deemed appropriate on the progress achieved and the difficulties encountered by them in seeking to secure implementation of the rights indicated in the resolution, together with the texts of legislation enacted and the jurisprudence of national courts concerning them.

3. The present Annual Report of the Commission will devote special attention to the issue of the rights of minors, in compliance with the recommendation contained in the said resolution.

4. To that end, the report on this topic will present, in turn, general considerations with respect to the situation of children in the hemisphere; a brief analysis of the new framework consequent upon the adoption of the Convention on the Rights of the Child under United Nations auspices; and a report on the information furnished by those member States that responded to the Commission's request.

II. Human rights of children

5. Protection of the human rights of children has become an issue of priority concern in the hemisphere. Although the issue is not a new one, its importance has sharpened in recent times, with children becoming the victims of violence, torture, forced labour under slavery conditions, sale for adoption purposes and in some circumstances forced organ donation, and armed hostilities in which they are often compelled to take part.

6. The Convention has so far been ratified by 107 countries. Of these, 29 are OAS member States: Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Ecuador, El Salvador,

Grenada, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Saint Kitts and Nevis, Trinidad and Tobago, Uruguay, and Venezuela. Four other OAS member States have signed the Convention: Antigua and Barbuda, Haiti, Saint Lucia, and Suriname. Two member States have not so far either signed or ratified the Convention: the United States, and Saint Vincent and the Grenadines.

III. Children in particularly difficult situations

1. Exploitation of children:

7. The drama being lived by 40-50 million children 1/ on the streets of the large urban centres of the Latin American countries is aggravated in some cases by the extermination and torture visited on minors by death squads and the police themselves. Most of these victims are boys, girls usually being subjected to sexual abuse.

8. Abandoned children on the streets are also vulnerable to drug addiction, sexual abuse and delinquency.

9. In investigations of cases of violence committed against street children the perpetrators typically go unpunished. However, according to information received by the Commission, some countries are taking steps to remedy that situation.

10. The major causes of the increase in the street-children population are the growth of the urban centres, the external debt problem of the developing countries, the droughts that trigger the flight from the land, civil wars, deterioration of the environment, AIDS and the growth of the population, especially in the case of adolescent girls, unmarried mothers on the streets, victims of prostitution.

11. In Latin America 7 per cent of children aged 4 to 10 years 2/ work under exploitive conditions harmful to their physical, mental and moral development. These 10-14 year old children are generally concentrated in farm work, domestic service and urban services sectors where it is very difficult to detect abuses of this kind.

12. Forced labour exposes these children to conditions that inhibit their growth, such as insanitary conditions, excessively long working hours, insufficient pay (if any), malnutrition and total lack of access to education. The most deplorable feature in these cases is that the governments themselves sometimes tolerate irregularities of this kind.

13. Articles 32 through 36 of the Convention on the Rights of the Child deal with what is referred to as protection of the child as a victim of labour exploitation (art. 32), illegal use of narcotics (art. 33), sexual abuse (art. 34), abduction or sale of children (art. 35), and all other forms of exploitation (art. 36).

2. Juvenile delinquents:

14. Delinquency is one of the biggest risks faced by street children. While they are still small, children find sympathy among people who see to their immediate needs. But this no longer happens when they grow older and need to turn to other resources to ensure their survival. It is at that stage that children under 18 can easily turn into delinquents.

15. This gives rise to the problem of lack of criminal liability of minors when they come before the State justice system. Most countries have courts that specialize in the area of minors and family, on the principle that a minor's problems involve the entire core family.

16. A child deprived of liberty must not be held incommunicado or in an institution for adults. The prison system is today a basic factor in embarkation on a career of crime because, just as the prison applies programmes for the correction of offenders, so does it use mechanisms that consolidate delinquency.

17. Articles 37 and 40 of the Convention on the Rights of the Child refer to children accused of having committed some crime (juvenile delinquents). While article 40 applies solely to children accused of violations of criminal law, article 37 concerns children that have been deprived of liberty supposedly for some reason.

3. Children involved in armed hostilities:

18. The most direct effects of armed hostilities suffered by children are on their physical or mental health. Because of the wars many children have been killed or crippled by bombing, minefields, firearms and torture.

19. Adolescents, the chief victims of arbitrary recruitment, find themselves directly involved in hostilities and usually, because they live in remote and not easily accessible areas, have less chance to find protection.

20. Psychological traumas in children, though less visible, have just as severe an impact. They are found in children that have lost their parents or siblings (often murdered before their eyes), have witnessed massacres in their villages or have been abducted, threatened and struck.

21. Article 38 of the Convention on the Rights of the Child provides for the protection of minors in armed hostilities. Paragraph 1 of that article provides as follows: "States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child."

IV. Respect for the rights of children in the member States:

22. Many of the Organization's member States have tailored their national legislations to the principles set forth in the Convention of the Rights of the Child and have formulated special programmes designed to deal with the current situation of children in the various groups of society in which they live.

23. In order to comply with the recommendation of the General Assembly referred to earlier, and at the request by the Commission, a number of OAS member States have furnished information on the action they have taken to devote special attention to respecting and promoting the rights of children. This information is reported below.

(a) Colombia:

24. Colombian domestic law provides, as it has done for some time, for preventive and special protection of minors through the enactment of various legal instruments and the organization of services and institutions which have evolved in step with the country's needs.

25. Law 75 of 1968 created the Colombian Institute for Family Welfare (Instituto Colombiano de Bienestar Familiar-ICBF), an agency responsible, under the supervision of the Office of the President of the Republic and the Ministry of Health, for furnishing and organizing preventive and special protection for Colombian children. It also created Protectors of Minors, attached to the ICBF, throughout the country and laid down provisions designed to guarantee responsible paternity.

26. Law 7 of 1971 created and organized the National Family Welfare System (Sistema Nacional de Bienestar Familiar), with jurisdiction over all public and private entities in Colombia that look after and work on behalf of families, with the object of ensuring that public family welfare services are provided systematically and uniformly throughout the country.

27. Colombia has posted a number of advances in the protection of children and the family in recent years. They include enactment of Decree-Law 2737 of 1989 (the Minor Children Code-Código del Menor), creation of the office of Special Attorney for Protection of Minors and Family (Procuradoría Delegada para la Defensa del Minor y la Familia), the specialized Family Jurisdiction agency, by means of Decree-Law 2272 of 1989, which also set up 322 Family, Juvenile and Errant Children Courts (Juzgados de Familia, de Menores y Promiscuos) in Colombia's major municipalities; creation of the Presidential Advisory Board for Women, Youth and Family (Consejería Presidencial para la Mujer, la Juventud y la Familia), and finally, ratification of the Convention on the Rights of the Child, approved in Colombia by Law 12 of 1991.

28. The rights of children under 18 are dealt with in articles 44, 45, 50 and 67 of Title II (Rights, Guarantees and Duties) of the new Constitution of 1991. Article 44 deserved special mention:

> The following are fundamental rights of children: life, physical security, health and social security, balanced nutrition, name and nationality, to have a family and not to be separated from it, care and love, education and culture, recreation, and free expression of opinion. They shall be protected against all forms of abandonment, physical or moral violence, abduction, sale, sexual abuse, labour or economic exploitation, and hazardous work. They shall also enjoy such further rights as are set forth in the Constitution, the laws and the international treaties ratified by Colombia.

The family, society and the State are obligated to assist and protect the child in order to guarantee his/her full and balanced development and the full exercise of his/her rights. Any person may require the competent authority to enforce these rights and punish those who violate them.

The rights of children prevail over the rights of other persons.

29. According to a report prepared by the Colombian Family Welfare Institute (ICBF), an agency under the jurisdiction of the Ministry of Health, about 46.5 per cent of Colombians are under 18 years old. The ICBF has developed a number of programmes for the care and protection of this segment of society. They include inter alia: Community Welfare Homes (Hogares Comunitarios de Bienestar), Children's Homes (Hogares Infantiles), School Cafeterias (Restaurantes Escolares), and Comprehensive Family Care Centres (Centros Integrales de Atención Familiar).

30. The ICBF cares for more than 20,000 abandoned or physically or morally endangered children throughout the country. This care comprises accommodation and protection in regular replacement homes, special replacement homes for incapacitated children and institutions contracted to provide rehabilitation services for physically or mentally deficient children.

31. Colombia's "Santander Code", which took effect on 7 August 1819, exempted children under 7 years of age from punishment except for care and correction by their families. The 1859 and 1890 codes contain even more precise provisions concerning re-education and exemption from punishment. Turning to the twentieth century, Law 98 of 1920 set up Courts and Reform and Correction Institutions for minors under 17 where criminal and police offences would be dealt with from a standpoint of protection and re-education. Later, Law 83 of 1946, known as the Child Defence Law, widened the competence of the juvenile courts to include cases of abandonment or physical or moral danger of minors, and attached to the courts Juvenile Care officers (Promotor Curador de Menores) responsible for studying the background of each child brought before the court and advising it on the assistance and protection action that would be in the child's best interest.

32. Decree 1818 of 1964 carried the reform further than Law 83. It set up a Council for Social Protection of Minors and Families (Consejo de Protección Social del Menor y de la Familia); made the Minors Division of the Ministry of Justice responsible for handling criminal offences committed by children under 12 and cases of abandonment and endangerment of those under 18; and provided for coordination between the juvenile courts and the re-education institutions. In this way the Decree definitively instituted a system of justice for minors separate and different from the ordinary system.

33. In Colombia, some 10,000 minors aged 12 to 18 are brought before the juvenile courts each year for criminal offences. About 6,000 of these are returned to their family environment by order of the court. The rest are remanded to specialized institutions for observation by multidisciplinary professional teams, composed of psychologists, social workers, doctors and attorneys, for a period averaging 45 days, after which they return home with an undertaking to attend re-education programmes conducted by the ICBF.

34. The remaining juveniles are held by court order for an average of a year in closed institutions, today annexed to the ordinary adult prisons, where they are also dealt with through re-education programmes.

(b) Dominica:

35. The Constitution of Dominica (1978) guarantees the basic rights of all citizens without discrimination. The rights of minors are dealt with in the Child Support Order (Chapter 162), the Child Protection Order (Chapter 161), the Child Labour Prohibition Order (Chapter 110) (see Amendment 5 of 1967), and the Juvenile Delinquents Punishment Order (Chapter 40).

(c) Ecuador:

36. Ecuador's legislation on minors has been revised as part of the process of adjusting and restructuring its local regulations on the protection of children and prevention of discrimination against them. A new Minors Code was drawn up, under the leadership of the Ministry of Social Welfare, International Defence of Children and UNICEF, with the direct participation of some 300 agencies and institutions working with children in Ecuador.

37. Under the new Code, a minor is not only a person in need of protection, as current law provides, but a person in course of formation who has rights and duties like everyone else. The first responsibility of the law must be to safeguard and guarantee the enjoyment by all the right to life, health, peace, education, access to culture, dignity and respect for one's own identity, while giving due attention to the special protection that children need owing to their particular situation and the preferential treatment accorded to them by the Declaration and the Convention on the Rights of the Child.

38. In the case of Ecuador, the basis of the current legislation is to be found in the first Minors Code, enacted in 1938, when the Labour Code was also published. These two laws, which are currently under revision, reflect the views of a time when the State assumed responsibility for protecting the most disadvantaged parties in social relationships. While the Government does bear responsibility for ensuring respect for children's rights, it rests mainly with families, communities and society. The new Code reflects this concept of social responsibility in the protection of children.

39. The problems of minors cannot be completely resolved by applying a Code because their needs go beyond mandates or prohibitions imposed by law. They are human problems whose causes can be economic, social or psychological and which affect not only the minor but also his or her family.

40. The new Code will promote a more human view of such problems as mistreatment, abandonment, disputes between parents, street labour and other difficult situations in which a minor may find himself or herself. At the present time the response in nearly every case is to separate the child from the family and incarcerate the adults that are "to blame", or even the child, in an institution, a proceeding that is more like a punishment for than a solution to the situation in which the minor and the family find themselves.

41. In contrast, the new Code will serve to guide and motivate a process of cultural and structural change in society, developed around the rights of the child. To that end it sets guidelines for governmental social policies and promotes the mobilization, within a framework of law, of social attitudes and public opinion in favour of minors. The new Code will be more than a simple set of rules; it will be a functional instrument for ensuring respect for children's rights in Ecuador.

42. Concerning abandonment, the new Code assigns mistreatment to a separate chapter. It recognizes two levels of abandonment: temporary and definitive. In addition, the ways of dealing with abandonment tend to avoid putting the minor in an institution and to favour family placement. A procedure is laid down which ensures parents of the right to show that they have not abandoned the child.

43. The protection of minors against mistreatment is dealt with in a special new chapter. It provides that only the juvenile courts are competent to deal with cases of mistreatment. The court can simply issue a warning, can order therapy or, in serious cases where the shattered relationship cannot be repaired, can issue a declaration of definitive abandonment. In cases of mistreatment amounting to criminal conduct, the court has the authority to order the institution of criminal proceedings. The Code creates a Family Rehabilitation Department responsible for taking preventive action and providing assistance in cases of mistreatment. It recognizes the role of community participation with the Government in dealing with mistreatment.

44. The current Minor Children Code designates as "juvenile delinquents" or minors exhibiting irregular behaviour persons who, being minors, commit acts that constitute punishable behaviour, as defined by the Code, and the punishment falls on the minor that commits the act.

45. The proposed reformed Minors Code avoids the use of terms that stigmatize minors. The Code recognizes parents' priority right to deal with behavioural problems of their children. It encourages community participation in supervising minors and assisting them to resume their place in society.

(d) Guatemala:

46. Guatemala is developing a human rights education project through its Ministry of Education. The purpose of the project is to involve all segments of society, governmental and others, in protecting the rights of children, among others, with the object of instilling a sharpened awareness of the importance of those rights in the Guatemalan community.

(e) Mexico:

47. In the case of Mexico, the legislative framework for protection of the rights of minors is laid down in the Constitution. Article 3 of Mexico's Political Constitution establishes the rights of minors to education and to training in the balanced development of their faculties and respect for the dignity of the individual, supported on the ideals of the brotherhood and equality of rights of all human beings. In Mexican law, the term minor means a person under the age of 18. Article 4 of the Constitution prescribes that

it is a prime duty of parents to safeguard the rights of minors to physical and mental health and satisfaction of their needs. It also provides that supportive measures for their protection shall be defined by law and implemented under the responsibility of the public institutions.

48. Concerning labour rights, sections II, III and V of article 123 of the Mexican Constitution set forth specific protective rules governing labour by minors.

49. Sections II and III contain provisions prohibiting the employment of children under 14 years of age, setting the maximum workday for children over 14 but under 16 at 6 hours and prohibiting their employment on unhealthy or hazardous tasks or on industrial or any other night work after 10 p.m.

50. In the case of working mothers, child protection begins during pregnancy. Thus, section V of article 123 prohibits the employment of pregnant women on work that involves substantial physical effort or endangers the course of the pregnancy. They are entitled to a compulsory rest period of 6 weeks prior to the expected date of delivery and 6 weeks thereafter, on full pay, and to retain both their jobs and all vested rights arising out of the labour relationship. Nursing mothers are allowed two special half-hour rest periods per day in order to feed their children.

51. These basic principles have been respected by the ordinary legislator in the Federal Labour Law and the head of the Federal Executive Branch in the regulations to it.

52. The constitutional provisions relating to minors have generated a series of legislative and regulatory provisions which specifically regulate the legal situation of minors, each within its particular sphere of application, with the object of guaranteeing the coherent and balanced satisfaction of minors' needs and the special protection they require against abuse, abandonment and exploitation.

53. Rules are laid down covering a series of legal situations that define the position of minors in their family life. The living conditions of the core family and a dignified environment for the development of its members are factors decisive to the social life and well-being of children. In that connection, article 4 provides that the law "shall safeguard the organization and development of the family".

54. Public institutions exist in Mexico for the protection of children and adolescents. An example is the National System for Comprehensive Family Development (Sistema Nacional para el Desarrollo Integral de la Familia-DIF), set up in 1977, which brings to bear the experience of several decades of systematic effort by the Mexican Government in the service of children. The DIF's institutional forerunners include the National Institute for Protection of Children (Instituto de Proteccion a la Infancia), created in 1961, and its successors: first the Mexican Institute for Assistance to Children (Instituto Mexicano de Asistencia a la Niñez), with expanded facilities and resources, and later the Mexican Institute for Child and Family (Instituto Mexicano para la Infancia y la Familia).

55. Mexico operates foundling homes for children and adolescents without family, which provide comprehensive temporary protection for abandoned children under six, in exercise of dative guardianship, and also homes for minors which care for children and adolescents aged 6 to 18 who are regarded, in light of their social situation, as fully or partly orphaned or abandoned.

56. These care services include accommodation, food, clothing, medical attention, educational and recreational activities, social services and legal support for minors deprived of protection by their families.

57. As regards the health and education rights of children, Mexico operates a number of programmes with a direct impact on the well-being of children and adolescents. The National Health System operates the Maternal and Child Health Programme and the School Health Care and Promotion Programme. The National System for Comprehensive Family Development operates inter alia the Nutritional Care and Improvement Programme, and Minors Special Situation Programme (whose purpose is to care for minors for whom the streets have become their habitat), the Programme for Prevention of Mistreatment of Minors and the Programme for Total Development of the Adolescent.

58. The Mexican Government also operates broad drug dependency prevention and care programmes.

59. The National Health System's programmes reach 94 per cent of Mexico's population. Average life expectancy at birth has risen from 47 years in 1950 to 70 years for the generation born in 1990, while infant mortality has fallen from 132 deaths per 1,000 live births in 1950 to 38 in 1990.

60. In education, according to the information furnished, the scale of the efforts made can be gauged from the following indicators: 27 per cent of the population is in the 5-14 years age group, which covers the 10 years of basic education; primary-school enrolment in 1990 totalled 14.6 million, including the 583,000 indigenous students in the bilingual and bicultural primary education programme. Some 4.5 million children attend secondary school. Illiteracy has been reduced from 23.7 per cent in 1970 to 8 per cent in 1990.

61. The framework of international efforts to promote the welfare and protect the rights of the child population has been expanded with the Convention on the Rights of the Child and the World Summit Conference on Children.

62. On 21 September 1990 Mexico ratified the Convention on the Rights of the Child. It was also one of the countries that sponsored the World Summit Conference on Children, held under United Nations auspices in September 1990 and attended by more than 70 heads of State and government. The President of Mexico stressed the need not only to assign a priority place to the world's children but also to promote sharpened awareness of the serious abuses suffered by minors who migrate with their families, those that seek asylum, and the many that live in poverty. "Only a global initiative to promote development can sow the seed of true hope for the world of the twenty-first century."

63. Concerning the treatment of juvenile offenders, article 18 of the Mexican Constitution makes it a duty of the Federation and the State Governments to set up special institutions for their rehabilitation.

64. The Law creating the Minors Guardianship Council (Consejo Tutelar para Menores) is designed to promote social readjustment of criminal offenders under 18 years of age. Article 34 of the Law provides that any authority before which a juvenile is brought must immediately place him or her at the disposal of the Guardianship Council.

65. In addition, articles 44 through 46 of the Law creating the guardianship Councils for Juvenile Offenders in the Federal District prescribe the treatment of minors, comprising observation to determine their personality traits by means of medical, psychological, pedagogical and social studies, the appropriate techniques being applied in each particular case.

66. The Mexican Government is currently studying possible reforms to this Law, on the basis of a preliminary draft drawn up by the National Commission of Human Rights, with the object of strengthening the guardianship system to tailor it to the needs arising out of the social situation as it exists and to the constitutional principles of legality and proportionality.

(f) Nicaragua:

67. In Nicaragua, the family, the community and the Government are responsible for and guarantors of the physical, mental and social development of minors, operating within parameters defined by the country's laws.

68. However, those laws are not adequate to permit effective protection of minors on the basis of the agreements under the Convention on the Rights of the Child. They include: the Minors Guardianship Law, the Adoption Law, Law No. 38 (dissolution of the marriage bond at the will of either party); Decree 10.65 (regulating mother, father and children relationships), and the Regulations to article 73 of the Labour Code (food allowances).

69. The Department of Protection is responsible for implementing the existing laws, in coordination with the Social Welfare teams in the various departments at the national level. The Department acts as plaintiff defending the rights of minors pursuant to article 39 of the Minors Guardianship Law. In addition, it protects abandoned, orphaned and mistreated children by placing them in centres or foster homes and/or arranging for their adoption by decision of an Adoption Council, which conducts a prior case study to ensure that the child will have a better future.

70. The Nicaraguan Social Security and Welfare Institute (Instituto Nicaraguense de Seguridad Social y Bienestar-INSSB) conducts the care and services programmes for minors. The Institute's task is to provide minors up to 15 years old with the care and attention they need for their proper development by means of preventive, protective and re-educational activities conducted through a national network of centres and Community Work activities.

71. Nicaragua's current under-15 population numbers about 1,790,000 persons of whom only 56,219 are being cared for by the INSSB under its various programmes. The following are the major parameters:

- Nicaragua will continue to have a population with an average of 40 per cent under 15 years of age until the beginning of the twenty-first century;

- Forty-six per cent of the current population is in the 0-14 years group;

- Seventy-five per cent of the under-10 population lives in places stricken by poverty;

- Infant mortality is 71.8 per 1,000 live births;

- Eighty-six of every 1,000 Nicaraguan children in the 0-6 years group have no access to either daily care programmes or preschool education;

- Some 150,000 children aged 7 to 12 do not attend primary school.

72. The various types of care provided by Social Welfare include: Infant Development Centres (CDIs), Communal Preventive Centres, Juvenile Protection and Re-education Centres, Community Work, and Mass Education.

73. Community Work operates through case-by-case attention. It provides care to minors who suffer mistreatment, abandonment, initial vagrancy and violation, and also food allowances and spouse and family guidance, with the aim of helping to lower the incidence of psychological problems in Nicaraguan families.

74. For the period 1990-1991 Nicaragua has managed to sustain the level of care furnished to minors and families in its more vulnerable sectors.

75. Through coordination with other institutions and agencies it has raised the quality of the services in terms of techniques and methods. Nicaragua receives financial support for the conduct of its programmes from international agencies that work on behalf of children, such as Norway's Red Barna, Sweden's Barnen, and UNICEF.

76. On the other hand, Nicaragua faces difficulties in applying its child protection programmes. These include serious deterioration of the physical plant of the juvenile care centres; Social Welfare's low operating budget; serious deterioration in the Nicaraguan child nutrition and health sectors owing to the dearth of human and financial resources; and shortcomings in the current child protection legislation, which does not afford full protection of minors: violation of the rights of minors is classified as a private offence, which means that the State cannot take the initiative in protecting them, and the lack of a Family Code means that the family protection legislation continues to be dispersed.

(g) Uruguay:

77. Articles 40 through 43 of the Uruguayan Constitution lay down the general framework of protection of minors' rights and the obligations of parents toward their children.

78. The provisions of the Constitution are in turn developed and supplemented by a compendium of legal regulations on the subject of minors known as the "Children's Code" (Código del Niño). The Code deals comprehensively with all aspects of the treatment of minors. The various topics dealt with in it include inter alia: prenatal protection; infancy; childhood; adolescence and labour; hygiene; intellectual and moral protection of minors; abandoned minors and juvenile offenders; loss of parental authority; adoption; investigation of paternity, and fixing of the food allowances system.

V. Conclusion:

79. The inhuman conditions under which so many children live in our hemisphere are tangible evidence of violation of the most elementary human rights, aggravated by exploitation, violence and the armed hostilities of modern society.

80. The rights provided for in the Convention on the Rights of the Child constitute the minimum rights that every society must guarantee to its children. Despite the serious violations of children's rights that take place in our region, it is noted that the Convention has been very well received, as is attested by the large number of OAS member States that have ratified it.

81. Attention is also drawn to the importance of enforcing the rights set forth in the Convention in order to ensure its effective implementation.

82. The Convention includes mechanisms for applying it or putting it into effect on a smaller scale than that prescribed for the implementation of human rights principles at the international level.

83. One such mechanism comprises the education of government officials and of individual members of society.

84. The other comprises revision of the national legislations of the States parties to adjust them to the provisions of the Convention.

85. In addition, the second part of the text of the Convention sets up a Committee on the Rights of the Child to monitor compliance with the obligations of the signatory States, which are required to present reports to it describing the measures they have taken to give effect to the rights recognized in the Convention. They are also required to furnish in these reports information on the progress they have accomplished with respect to enjoyment of those rights and any difficulties or other circumstances that could impair their compliance with the obligations set forth in the Convention.

86. The Committee on the Rights of the Child, which is composed of experts appointed in their personal capacity by the Convention's signatory States, has no competence whatever to consider complaints of specific cases of violation of the rights recognized by the Convention.

87. At the regional level, however, the American Convention on Human Rights includes a mechanism which allows the Inter-American Commission on Human Rights to receive and deal with reports of individual cases of violation of human rights. Such complaints can also refer to specific cases of violation of children's rights, since they fall within the compass of the human rights covered by the American Convention.

VI. Recommendations:

88. Bearing in mind that, vulnerable as they are, children have become the victims of violence, torture and extermination, sexual abuse, drug addiction and crime, forced labour under conditions that can best be likened to slavery, illiteracy and malnutrition, kidnapping for purposes of adoption or involuntary organ transplants, and the armed conflicts in which they are often forced to participate, the Commission has decided:

1. To recommend to the member States that they adopt the necessary measures, both on the domestic front and through international cooperation, to guarantee observance of the rights of children in accordance with articles 1, 2, 19 and 26 of the American Convention on Human Rights and the provisions of the Convention on the Rights of the Child, approved and ratified in the United Nations by majority of American States.

2. To reiterate to those Member States of the OAS that have not yet done so the necessity that they transmit the information requested by the IACHR concerning strengthening of the OAS in the area of human rights of minors, pursuant to Resolution AG/RES.1112 (XXI-O/91), approved by the General Assembly at its twenty-first regular session.

Notes

1/ Childhope Foundation figure.

2/ International Labour Office figure.

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Sub-Commission on Prevention of
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Seventeenth session
4-13 May 1992
Items 4 and 5 of the provisional agenda

OVERALL EVALUATION OF THE ACTIVITIES OF THE WORKING GROUP DURING ITS FOURTEENTH, FIFTEENTH AND SIXTEENTH SESSIONS

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information submitted by Governments, United Nations organs, specialized agencies and intergovernmental organizations

Note by the Secretary-General

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Holy See 2

GE.92-12177/3684H

HOLY SEE

[18 March 1992]
[Original: French]

1. The Cardinal Secretary of State has asked this Permanent Mission to express the Holy See's deep concern at the persistence of the shameful practices of the exploitation of children in all its forms and prostitution. Pope John Paul II clearly expressed this concern in his statement of 22 February 1992 on Gorée Island (Senegal), when he visited the "House of Slaves", which His Holiness called the "African sanctuary of black suffering". The Pope condemned the traffic in black people and slavery witnessed at that site, stressed that "the scourge of slavery and all its after-effects must disappear for ever" and called on everyone to "oppose new and often insidious forms of slavery, such as organized prostitution, which shamefully exploits the poverty of the populations of the third world".

2. The words of Pope John Paul II, in particular those contained in paragraph 3 of the statement, were widely commented upon throughout the world, because they highlight the profound reasons for which slavery and all its modern forms are unacceptable.

3. The Holy See would like this document to be placed before the Working Group on Contemporary Forms of Slavery at its seventeenth session.

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GE.92-12299/3786H

I. GOVERNMENTS

BAHRAIN

[30 March 1992]
[Original: English]

The concerned authorities of Bahrain inform that the practice of the slave trade, traffic in persons and the exploitation of persons do not exist in Bahrain. All the people residing in Bahrain enjoy the same rights regardless of their race, language, background or religion.

SAUDI ARABIA

[14 April 1992]
[Original: English]

1. The Kingdom of Saudi Arabia does not, and never did, recruit children into governmental and non-governmental forces.

2. No contemporary forms of slavery are practised in Saudi Arabia.

BURKINA FASO

[14 April 1992]
[Original: French]

1. Within the context of the campaign against the exploitation of child labour and the prostitution of children, a number of policies have been adopted:

(a) Guidance of street children and young people in an open environment or in specialized re-educational and vocational training institutions;

(b) Keeping young rural people in the villages through programmes developed by the Young Farmers' Training Centres;

(c) Alerting teachers of the Koran to the problem so that they can take effective responsibility for children engaged in begging whom they receive for religious education; and

(d) Improving awareness of certain slavery-like situations such as:

(i) The household employment of young girls or boys without any particular status and without consistent remuneration; and

(ii) The exploitation by procurers of immigrant girls coming, in particular, from the countries of the subregion.

2. As for the traffic in persons and the exploitation of the prostitution of others, the first noteworthy fact is that procuring is developing in Burkina.

3. Unfortunately, although the relevant provisions of the Criminal Code are severe, they suffer from a lack of effective application. It is to be hoped, however, that the new Criminal Code which is due to enter into force in the near future, will be more vigorously applied in this particular area.

4. The second noteworthy fact is the persistence of forced and/or early marriages and of the obligation imposed on certain married women to work in order to reimburse the excessive dowries which their husbands have had to pay (in some parts of the country).

5. In an endeavour to prevent these situations from occurring, the Code of Persons and of the Family provides, inter alia, for:

(a) The establishment of a minimum age for marriage (17 for girls and 20 for boys) without court authorization;

(b) The principle of the consent of the future spouses to the marriage and of matrimonial freedom; and

(c) Prohibition of the dowry as a basic condition for marriage.

6. It should be noted that the revision of the Criminal Code (1946) takes account of the new forms of exploitation, particularly with respect to children.

II. INTERGOVERNMENTAL ORGANIZATIONS

COMMISSION OF THE EUROPEAN COMMUNITIES

[18 March 1992]
[Original: French]

1. The Treaties establishing the European Communities did not provide for any Community competence, properly so-called, in respect of human rights. Nevertheless, in its preamble, the EEC Treaty affirms as the essential objective of the European Communities "the constant improvement of the living and working conditions of their peoples" and states that their action is based inter alia on the "fundamental rights recognized ... in the Convention for the Protection of Human Rights and Fundamental Freedoms ..." (preamble to the Single European Act).

2. At the internal level, the Commission of the European Communities plays an active part in the preparation of Community rules designed to coordinate the national provisions of the member States with regard to the protection of certain social categories. Thus, in the context of its programme of action for the implementation of the "Community Charter of the Fundamental Social Rights of Workers", adopted at the end of 1989, the Commission proposed, on 15 January 1992, a Council directive designed to protect young people under 18 years of age from conditions of work likely to harm their health, safety and development.

3. In order to ensure a uniform application of fundamental rights in the Community, the Commission submitted to the Council at the end of 1990 a communication concerning the accession of the European Community to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concluded within the framework of the Council of Europe.

4. In its relationships with third countries, the Community endeavours to promote respect for human rights in accordance with international commitments such as the Charter of the United Nations. For example, article 5 of the Fourth Lomé Convention is entirely devoted to human rights, which form part of the objectives and principles of ACP-EEC cooperation. There is also annexed to the Convention a declaration (reflected in art. 5) in which the "Contracting Parties proclaim their determination to work effectively for the eradication of apartheid which constitutes a violation of human rights and an affront to human dignity".

5. The Community and its member States have also developed some positive measures to encourage the abolition of apartheid and have recently agreed to intensify the programme of these positive measures and to adapt it to the necessities of current developments.

6. Lastly, many cooperation agreements have already taken account of human rights as, in the preamble to the cooperation agreement with the countries members of the General Treaty on Central American Economic Integration and in the first article of the cooperation and trade agreements with Chile and Argentina. The Rome Declaration of 20 December 1990 on relations between the European Community and the Rio Group reaffirms the determination of the

parties to "reinforce their relationship, with a view to ... supporting democracy and the rule of law, respect for human rights and promotion of social justice, respect for sovereignty, self-determination and non-intervention, and working together to create adequate conditions to eliminate poverty and all forms of racial, political, religious and cultural discrimination".

7. The Commission also recalls that its member States have entered into commitments, particularly with regard to the problem of forced labour, within the framework of the International Labour Organisation.

8. Inasmuch as resolution 1983/30 constitutes a contribution to the preparation of international standards in matters of human rights, its implementation should be encouraged at the international level. The analysis of the effective application of these standards, to be submitted to the Secretary-General and the Economic and Social Council at its first ordinary session in 1991, will encourage awareness by the general public and by Governments of the need to abolish all modern forms of slavery with a view to an improved protection of minorities and to respect for human rights.

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Sub-Commission on Prevention of Discrimination
and Protection of Minorities
Working Group on Contemporary Forms
of Slavery
Seventeenth session
4-13 May 1992
Items 4 and 5 of the provisional agenda

OVERALL EVALUATION OF THE ACTIVITIES OF THE WORKING GROUP DURING ITS FOURTEENTH, FIFTEENTH AND SIXTEENTH SESSIONS

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information received from non-governmental organizations

Note by the Secretary-General

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GE.92-12193/9477a

INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS

[19 January 1992]
[Original: French]

1. The International Association of Democratic Lawyers (IADL) has supplemented its 6 June 1991 report by information provided by a Peruvian Bishop, Mgr. Gastelumendi, attesting to the existence of a traffic in poor children who are abducted and used for removal of organs, and statements by the Central Office of Franciscan Missionaries in Honduras reporting trade in children for organ removal.

2. The IADL has recently put together a large number of press excerpts, dating from 1987, 1988 and 1991, in which various journalists have investigated the traffic in children's organs:

(a) On 14 April 1987, articles in L'Humanité (Maïté Pinero) and Le Monde. Articles on 23 April and 2 June in L'Humanité. On 18 December, publication of an article by the National Ethics Committee, in France, with a statement by Mr. Lucien Sève on kidnapping, "Stock of organs for sale for a small fortune";

(b) On 27 January 1988, an article in L'Humanité, on 15 September another article in the same newspaper (Jacques Moran), on 23 September an article in Libération (Michel Raffoul) and an article in the September issue of the monthly Viva (Michel Raffoul and Maïté Pinero);

(c) On 12 December 1991, an article in Libération (Maria-Laura Avignolo) and one in the 16-22 December issue of the Weekly Voici (Isabelle Verbaere).

3. As in Témoignage Chrétien and La Croix of a few years back, the titles of these articles are obviously aimed at shocking the public: "For sale: children's hearts", "Mutilators of children", "Five babies placed in France ... (children from 5 months to 11 years old, some to serve as organ donors)", "Report by Lucien Sève on respect for the person", "Babies killed, kidnapped, dismembered", "A visa for an organ", "Traffic in children", "World traffic in human organs", "The baby connection", "Organ mafia scouring the shanty towns", etc. The sources named by these journalists are statements by doctors, the police, Interpol, judges and officials. They cannot all be taken at face value, but we can no longer ignore the problem and the terrible human rights violations involved or the fact that the kidnapping of children and their subsequent disappearance are crimes against humanity.

4. In document E/CN.4/Sub.2/1990/43, Mexico acknowledges that children have been adopted for unlawful ends that include the sale of children for profit and even the sale of organs (para. 38). Mexico is the only State Member of the United Nations to date that has officially acknowledged the sale of organs removed from children. It is difficult to maintain that there is no evidence of traffic in organs if a State officially announces that it is aware of such traffic.

5. A few years back, a journalist and a member of IADL reported the disappearance of several dozen children after the Armero disaster in Colombia. These children, who had been taken to shelters, had most probably been abducted after eluding the supervision of the first-aid workers, who had not been able to draw up lists of the names of the surviving children in time. Since learning that channels for the traffic in organs are increasing in Colombia, we now believe that the Armero disappearances are connected with the use of poor children left orphaned by the volcano's eruption for purposes of organ removal.

6. Owing to growing public awareness of this tragic situation, the IADL would like to repeat its recommendations, submitted to and adopted by the Working Group in August 1991, to the effect that Governments, the United Nations and its specialized agencies, especially the World Health Organization, Interpol and the humanitarian non-governmental organizations, should thoroughly investigate all the information they can obtain, in order that these practices may be denounced and prosecuted and that all possible measures should be taken to identify and indict the criminals.

INTERNATIONAL FEDERATION TERRE DES HOMMES

[15 March 1992]
[Original: French]

1. Child prostitution is found as often in developed as in developing countries, although to differing degrees, for children are the most easily exploited group in all of human society. Frightening figures have been put forward concerning the number of child prostitutes: there are said to be some 500,000 of them in Brazil, 250,000 in Thailand, 20,000 in Manila and 10,000 in Sri Lanka.

2. In the region of Asia and the Pacific, prostitution is rising sharply owing to economic changes, migration, the high unemployment rate and the increase in tourism. The ideology of male supremacy is another cause of this increase. Together with child prostitution, there is a growing traffic in women and children, which is one of the most lucrative and easiest to conduct.

3. The International Federation Terre des Hommes (IFTDH) has received reports concerning Thailand according to which child prostitution has expanded to rural areas. For many peasant families, particularly in the northern part of the country, the sale of a daughter for prostitution has become a means of survival and a way of obtaining consumer goods that are symbols of social advancement. The trade in children has become so lucrative that demand now exceeds supply at the local level. As a result, this trade is spreading to the neighbouring countries.

4. In addition to poverty, which is the best-known cause of child prostitution, there is the desire of some parents to improve their living conditions and obtain consumer goods such as household appliances. At present, it is said that some parents are now becoming increasingly aware of the fate awaiting their children, but they do not consider their action to be a violation of the child's rights. Prostituting oneself to help one's family

has become an acceptable value, as it were, for a number of rural dwellers in various regions of Thailand. In this context, preventive action is needed at the parent level, together with the possibility of prosecuting those who deliberately transgress their role and sell their children for prostitution.

5. In the field of exploitation of child labour, it is urgent to finalize, adopt and implement the programme of action on this subject. In the opinion of IFTDH, child labour is counter-productive in the struggle against poverty and underdevelopment, for it often happens that children work whereas their parents are unemployed. This continues for generations and results in the fact that adults spend their lives in underemployment, for they have received no training while spending their youth performing thankless and harmful work. The only logical explanation for such an abnormal situation is profit. In this context, an international label, specific to each type of product, certifying that an item for sale was not produced by children, might be established or extended if already in existence.

6. The IFTDH has received reports on child servants in Haiti. Seventy per cent of this group is said to be made up of girls. These children represent a significant stratum of urban society in Haiti. They work in the homes of well-to-do, middle-class or poor families. There are over 40,000 of them in Port-au-Prince alone, and they come from the poorest families in the country, especially in rural areas. Because they are unskilled, they are forced to accept badly paid jobs and used for all sorts of domestic work. They rise very early, go to bed very late and have only four or five hours' rest a night. They are discriminated against and considered as inferior.

7. One member of the IFTDH is supporting a project aimed at halting the exodus to the cities and helping child servants by giving them the opportunity to learn to read and write and receive vocational training.

8. Education is generally agreed to be the most effective way of ending child labour. Thus the IFTDH would like to repeat its comments concerning the part of the Programme of action for the elimination of the exploitation of child labour that deals with education. This part is too general and should be reformulated, refined and developed.

FRIENDS WORLD COMMITTEE FOR CONSULTATION

[17 January 1992]
[Original: English]

Child soldiers

1. Tens of thousands of children are recruited into armed forces. Some of these children are as young as seven years old. Many children have been maimed or killed as a direct result of participating in armed conflicts. Others suffer from psychological trauma, and large numbers of children are captured and detained in prisoner-of-war camps.

2. Some children join armed forces voluntarily, perhaps inspired by the idea of liberating their country. Others join in order to satisfy their basic

needs of food, clothing and shelter. But many are forcibly recruited. This not only raises problems for the eradication of slavery-like practices and the exploitation of child labour but is also a gross violation of human rights.

3. In its report on child soldiers, the Friends World Committee for Consultation makes a number of recommendations including the following:

(a) Governments should ratify the Geneva Conventions of 1949 and the two Additional Protocols;

(b) The United Nations Commission on Human Rights should appoint a special rapporteur to monitor implementation of standards concerning the use of children in armed forces;

(c) The age of recruitment into armed forces should be raised from 15 to 18 years;

(d) The United Nations Secretary-General should initiate a high-level study on the use of children in armed forces;

(e) Children fleeing recruitment into armed forces should be recognized as refugees.

Girls at war

4. Not much is known about the participation of girls in the wars of the end of the twentieth century, for the role of girls at war is rarely highlighted in news coverage by war correspondents or even in magazines promoting the advancement of women and girls.

5. While the Convention on the Rights of the Child sets the minimum age of recruitment into the armed forces at 15, a considerable body of opinion hopes that the minimum age will be raised to 18 by the time of The Hague Conference in 1999, thus protecting all minors from participation in war.

6. In some 40 recent wars in which children are known to have taken part, girls have been or were soldiers or military support forces in at least 20. A few British girls are among the minors sent to the Gulf war in 1991. The fate of these minors was publicized in a national campaign to raise the age of enlistment to 18. Girls at present are reported to be fighting in El Salvador, Guatemala, Lebanon, Mozambique, with Palestinian forces in Lebanon and Israel, in Peru, the Philippines and Sri Lanka. Young women are fighting in the war in Croatia but whether they are under 18 has not been indicated in available news reports.

7. Relevant studies from different parts of the world all show that a significant proportion of children who have served as soldiers develop serious psychological problems as a result of their war experience: emotional disturbances, distortion of moral values, delayed reactions. It is not likely that the girls escape such problems.